

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 23rd DAY OF NOVEMBER, 2009 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	James D. Politis	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown	
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Brian Hamilton	-Economic Development Director
	Steve Sandy	-Planning Director
	Ruth L. Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- | | | |
|------------------|-----|---|
| Section 2.2-3711 | (5) | Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community. |
| | | 1. Project # 200930 |
| | (3) | Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body |
| | | 1. Old Blacksburg Middle School Property |
| | (1) | Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of a Public Body |
| | | 1. New River Valley Economic Development Alliance |
| | | 2. Planning Commission |
| | | 3. Transportation Safety Commission |

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Doug Marrs	
Mary W. Biggs	
James D. Politis	
William H. Brown	
Gary D. Creed	
Annette S. Perkins	

OUT OF CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Mary W. Biggs	
James D. Politis	
William H. Brown	
Gary D. Creed	
John A. Muffo	
Annette S. Perkins	

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

<u>AYES</u>
Mary W. Biggs
James D. Politis
William H. Brown
Gary D. Creed
John A. Muffo
Doug Marrs
Annette S. Perkins

<u>NAYS</u>
None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was lead by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PUBLIC HEARINGS

Ordinance to renew Agricultural and Forestal District #6 (AFD) consisting of the following properties:

**Agricultural & Forestal District – 6
(South of Shawsville)**

Givens Land Associates	145.3 acres
Estate of Ann Gardner Gray	185.136 acres
Mary Rordam	232.06 acres
Macon Sammons, Jr.	483 acres
Jimmy Yopp	123.7194 acres
C.M. Yopp	34.05 acres
Robert Williams	125.732 acres
Total Acreage	1330.213 acres

Steve Sandy, Planning Director, provided a brief summary of the AFD renewal process. Mr. Sandy explained that landowners who have properties in AFD- 6 have applied for renewal for another eight year term. All properties are in the Alleghany Springs area of Montgomery County. Each landowner requesting renewal has a conservation plan or forestry management plan on file with the county Land Use Office and has submitted a Best Management Practices Statement.

The AFD Advisory Committee met on November 12, 2009 to review the properties up for renewal. They concluded that the properties are being adequately managed as represented in the Best Management Practices statements. The AFD Advisory Committee believed all conditions for renewal had been met and recommended renewal.

At their November 19, 2009 meeting, the Planning Commission also recommended approval of the renewal of the AFD – 6 with the same terms and properties as the previous eight years. The Planning Commission believed the renewal for another eight year term would be a benefit to the County.

Supervisor Politis noted he is the Board’s liaison on the AFD Advisory Committee and believes this area to be pristine and agrees it should be renewed.

The Chair opened the public hearing for comments.

There being no speakers, the public hearing was closed.

Rezoning Request – Henry & Sarah Ann Brabham & Brabham Enterprises

A request by Henry & Sarah Ann Brabham and Brabham Enterprises, LLC (Agent: Gay and Neel, Inc.) to rezone approximately 6.832 acres from Agriculture (A-1) to General Business (GB) to allow hotel and restaurant uses. The property is located on the northeast

Minutes, November 23, 2009

corner of the intersection of North Fork Road (Rt. 603) and Interstate 81, Exit 128, identified as Tax Parcel No(s). 046-A12E, 046-A12B, 046-A6C, 046-A6A (Acct Nos. 030792, 015955, 035144, 035143), in the Mt. Tabor magisterial district. The property currently lies in an area designated as Village in the Comprehensive Plan and further identified as Mixed Use in the Elliston/Lafayette/Ironto Village Plan with an allowable density of two units per acre.

Steve Sandy, Planning Director, explained that the applicant is proposing the construction of a 4500 sq. ft. 80 room hotel and restaurant with a drive-thru near the Lancer Truck Stop located off I-81, Exit 128. This request was submitted October 2009 and at their October 14, 2009 meeting, the Planning Commission tabled the request to allow the applicant to work with staff on proffered conditions to address some of the concerns and impacts discussed by the Commission. Mr. Sandy believes the proffered conditions submitted to the Board of Supervisors addresses all concerns that were voiced.

Mr. Sandy reported one of the major concerns was the realignment of Reese Mountain Road. The Planning Commission believes that it is important for the property owners that currently use the road to understand what type of road is being proposed. The proposed commercial use of the site requires a commercial entrance and must meet the Virginia Department of Transportation's requirements. One main entrance is proposed to be constructed on North Fork Road (SR 603) and would be a full access intersection. A secondary entrance is proposed off the exiting Reese Mountain Road. This road is considered private but is located on VDOT right-of-way.

As part of the rezoning application, Reese Mountain Road is proposed to be realigned and the existing traffic would be re-routed to an upgraded road through the hotel property site. Included in the proffered conditions, is that Reese Mountain Road will be realigned and constructed and a new entrance permit approved prior to the closure of the existing Reese Mountain Road.

Mr. Sandy also reported that water/sewer services will be provided by the Montgomery County Public Service Authority. The applicant is working with a private landowner to connect to the existing crossway under I-81. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA, both on and off site, to accommodate the requested capacity.

John Neel, agent, addressed the Board on behalf of the applicant. Mr. Neel stated they have been working with the necessary officials to get the proper commercial entrance permits and water/sewer infrastructure in place. He explained that no site plan is available at this time due to not having a potential prospect. They wish to have the land zoned accordingly for planned commercial development.

The Chair opened the public hearing for comments.

There being no speakers, the public hearing was closed.

PUBLIC ADDRESS

There being no speakers, the public address session was closed.

DELEGATIONS

Blacksburg Transit – New Bus Service to the Town of Christiansburg

Becky Martin, Blacksburg Transit, made a presentation on the new bus service to the Town of Christiansburg. The Blacksburg Town Transit will launch their expanded Christiansburg Bus Service on November 23, 2009. The Two Town Trolley service will be replaced with three routes, The Explorer, Shopper Express, and the Go Anywhere. The Explorer will serve Christiansburg's downtown central business district and surrounding neighborhoods. The Shopper Express will serve the commercial areas near the New River Valley Mall, Spradlin Farm Shopping Center, and the K-Mart Shopping Center. The Go Anywhere will provide service from any place in Christiansburg to any destination in Christiansburg. This service requires advance reservations.

Montgomery County Voter Registrar

Randy Wertz, Montgomery County Registrar, provided information regarding problems during the November 3, 2009 election. Mr. Wertz explained that due to a formula error with the spreadsheet used to tabulate voting results delayed the local election results from being posted into the State Board of Election's system until almost midnight on Election Day. Polling places closed at 7:00 p.m. with results coming into the Registrar's Office from 8 – 10:00 p.m. Staff discovered that the turnout figures were incorrect and that's when they started working to fix the formula error in the spreadsheet. Mr. Wertz explained that he wanted to make sure all the numbers were correct before posting the results. There was also a human error in the data entry of the School Board Election in the D-2 voting precinct showing the wrong candidate had won that precinct. Mr. Wertz stated due to a personnel issue he could not go into details; however, the employee in question is no longer employed in the Registrar's office.

Mr. Wertz commented that he was unhappy with the way the election was handled this year and that it did not meet their standards. There were numerous errors and their goal is to make sure it doesn't happen again. He stated that in the last Presidential election there were no problems with the counting/posting of the voting results and everything ran smoothly other than the large turnout at one voting precinct.

CONSENT AGENDA

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated November 23, 2009 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
William H. Brown	
Gary D. Creed	
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	

A-FY-10-57 CLERK OF THE CIRCUIT COURT TECHNOLOGY TRUST FUND

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

251	Clerk of Circuit Court	\$27,961
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
02250-423100 Shared Expenses	\$27,961

Said resolution appropriates Technology Trust Fund monies to cover expenses in the Clerk of the Circuit Court's office.

R-FY-10-83
ADDITION TO THE SECONDARY SYSTEM
OF STATE HIGHWAYS
THE RIDGES SUBDIVISION PHASES 4-7

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The streets described below are shown on a plat in the Clerk's Office of the Circuit Court of Montgomery County; and

WHEREAS, The representative for the Virginia Department of Transportation has advised the Montgomery County Board of Supervisors that the streets meet the requirement established by the Virginia Department of Transportation's Subdivision Street Requirements and recommends these streets be added to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia requests the Virginia Department of Transportation to add the following streets to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer:

ADDITION:

The Ridges Subdivision Phases 4-7

Name of Street:

► **New Ridge Road extension, State Route Number 1052**

From: SR 629 Bradshaw Road

To: 0.48 mi NW of Route 629 to End State Maintenance Rt. 1052, a distance of: 0.48 miles.

Recordation Reference: PB 23 PG 382-383

Right of Way width = 50 feet

► **Logan Lane, new State Route Number 1051**

From: SR 1052 New Ridge Road

To: cul-de-sac, a distance of: 0.15 miles.

Recordation Reference: PB 25 PG 41

Right of Way width = 50 feet

► **Lindsey Drive, new State Route Number 1054**

From: SR 1051 Logan Lane

To: SR 1059 Taylor Lane, a distance of: 0.39 miles.

Recordation Reference: PB 27 PG 79

Right of Way width = 50 feet

► **Taylor Lane, new State Route Number 1059**

From: SR 1054 Lindsey Drive

To: cul-de-sac, a distance of: 0.15 miles.

Recordation Reference: PB 27 PG 222-223

Right of Way width = 50 feet

BE IT FURTHER RESOLVED, The Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

R-FY-10-84
ADDITION TO THE SECONDARY SYSTEM
OF STATE HIGHWAYS- FLANAGAN DRIVE (SR 838)

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The street described below is shown on a plat in the Clerk's Office of the Circuit Court of Montgomery County; and

WHEREAS, The representative for the Virginia Department of Transportation has advised the Montgomery County Board of Supervisors that this street meets the requirement established by the Virginia Department of Transportation's Subdivision Street Requirements and recommends this street be added to the secondary system of state highways as a no cost rural addition.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia requests the Virginia Department of Transportation to add the following street to the secondary system of state highways as a no cost rural addition, pursuant to Section 33.1-229, Code of Virginia and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer:

ADDITION:

No Cost Rural Addition – Flanagan Drive (SR 838)

Name of Street:

Flanagan Drive (SR 838)

From: FO-60

To: 0.36 miles west of FO-60, a distance of 0.36 miles

Right of Way width = 50 feet

BE IT FURTHER RESOLVED, The Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

R-FY-10-85
ADJUSTMENT AND APPEALS BOARD
APPOINTMENT

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Jason C. Boyle** to the **Adjustment and Appeals Board** effective November 24, 2009 and expiring November 23, 2013.

R-FY-10-86
ADJUSTMENT AND APPEALS BOARD
APPOINTMENT

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Robert W. Pilkington** to the **Adjustment and Appeals Board** effective November 24, 2009 and expiring November 23, 2013.

OLD BUSINESS

ORD-FY-10-20

AN ORDINANCE AMENDING CHAPTER 1 ENTITLED GENERAL PROVISIONS SECTION 1-6 OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA BY IMPOSING A THREE DOLLAR (\$3.00) FEE AS PART OF COURT COSTS IN CIVIL, CRIMINAL OR TRAFFIC CASES IN DISTRICT OR CIRCUIT COURT WITH THE PROCEEDS TO BE USED SOLELY FOR THE CONSTRUCTION, RENOVATION OR MAINTENANCE OF A COURTHOUSE

On a motion by William H. Brown, seconded by Doug Marrs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 1 entitled General Provisions, Section 1-6 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 1-6. Classification of and penalties for violations; continuing violations.

- (a) Whenever in this Code or any other ordinance of the county, or any rules or regulations promulgated by any officer or agency of the county, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as provided in Code of Virginia, §18.2-11.
- (b) Whenever in any provision of this Code or in any other ordinance of the county, or any rule or regulation promulgated by an officer or agency of the county, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a class 1 misdemeanor.
- (c) Notwithstanding any other provision of this section or any other section of this Code or any ordinance, rule or regulation, no penalty for the violation of this Code or other ordinance, rule or regulation of the county shall exceed that prescribed by state law for a like offense.
- (d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.
- (e) The board of supervisors may bring suit in the circuit court to restrain, enjoin or otherwise prevent a violation of this Code.
- (f) Pursuant to §17.1-281 of the Code of Virginia, 1950, as amended, that a fee of two dollars (\$2.00) is hereby assessed as additional costs in each civil, criminal or traffic case in general district court, juvenile domestic relations court, and circuit court. This assessment shall be collected by the Clerk of the Court in which the action is filed and remitted to the Montgomery County Treasurer. The proceeds of this assessment shall be appropriated by the Board of Supervisors used for the construction, renovation or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance.
- (g) Pursuant to §53.1-120 of the Virginia Code, 1950, as amended, a fee of ten dollars (\$10.00) is hereby assessed as additional costs in each criminal or traffic case in the general and juvenile and domestic relations district courts and in circuit court in which the defendant is convicted of a violation of any statute or ordinance. This assessment shall be collected by the clerk of court in which the case is heard, and remitted to the Montgomery County Treasurer. The board of supervisors shall appropriate these fees to the Montgomery County Sheriff's Office for the funding of courthouse security personnel.
- (h) Pursuant to §15.2-1613.1 of the Virginia Code, 1950, as amended, a processing fee of twenty-five dollars (\$25.00) is hereby assessed on any individual admitted to the Montgomery County Jail or the regional jail following conviction. This processing fee shall be ordered as a part of court costs collected by the clerk of court in which the case is heard and deposited into

the account of the Montgomery County Treasurer. The board of supervisors shall appropriate this processing fee to the Montgomery County Sheriff's Office to defray the costs of processing arrested persons into the Montgomery County Jail or the regional jail.

(i) Pursuant to Code of Virginia, §17.1-281C., as amended, that a fee of three dollars (\$3.00) is hereby assessed as additional costs in each civil action filed in the general district court, juvenile domestic relations court and circuit court if the amount in controversy exceeds \$500 and in each criminal or traffic case in the general district court, juvenile domestic relations court and circuit court in which the defendant is charged with a violation of any statute or ordinance. This assessment shall be collected by the clerk of the court in which the action is filed and remitted to the Montgomery County Treasurer. The proceeds of this assessment shall be appropriated by the Board of Supervisors solely for the construction, reconstruction, renovation of or adaptive re-use of the courthouse structure.

This Ordinance shall be deemed effective as of December 1, 2009.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
Gary D. Creed	
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
James D. Politis	
Annette S. Perkins	

COUNTY ADMINISTRATOR'S REPORT

Joint Meeting with School Board is scheduled for Monday, November 30, 2009 at 6:00 p.m. at the Montgomery County Government Center.

Joinder Study A meeting has been scheduled for Monday, November 30, 2009 at 2:00 p.m. to discuss the status of the joinder study.

BOARD MEMBER'S REPORTS

Supervisor Muffo attended the Mental Health Awards Dinner on November 19, 2009. Police officers that were trained to handle mental health situations were recognized at the dinner.

Supervisor Biggs attended the School Board meeting. School Board members are to take action on the old Blacksburg Middle School property at their December meeting. The School Board has narrowed the Superintendent search down to three candidates and are hoping to hire a new superintendent by the end of the year.

Library Board – Supervisor Biggs reported the passing of Joy Foster, who served on the Library Board for a number of years. Ms. Foster was a retired librarian for the school system and was committed to serving the library. Supervisor Biggs requested a resolution of commemoration for Ms. Foster be placed on a future agenda.

ADJOURNMENT

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously, the Board adjourned to Monday, November 30, 2009 6:00 p.m. for a joint meeting with the Montgomery County School Board

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
John A. Muffo	
Doug Marrs	
Mary W. Biggs	
James D. Politis	
William H. Brown	
Annette S. Perkins	

The meeting adjourned at 8:45 p.m.

APPROVED: _____	ATTEST: _____
Annette S. Perkins	F. Craig Meadows
Chair, Board of Supervisors	County Administrator